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MAY 04 2007

Docket No. F-7876

Ser. No. 10/606,628

REMARKS

Claims 1-16 are now pending in this application. Claims 9 and 12 are allowed. Claims 1-8, 10 and 11 are rejected. New claims 13-16 are added. Claims 1-8 and 10 are amended herein to clarify the invention.

FINALITY IS PREMATURE

Applicants respectfully submit that the finality of the present Office Action is premature. The Office Action fails to state the grounds for finality. The original claims were not amended in the last response and the Examiner has now set forth new grounds of rejection. The new grounds of rejection of claims 1-4 are that the Examiner has decided to read the bell on "[t]he escalator, as shown in 26, [which] is described in Column 2, lines 50-60." Response to Arguments, Office Action mailed February 6, 2007. In the first Office Action such grounds for rejection were not set forth. The grounds of a rejection are not limited to the reference itself but how the reference is applied to make the rejection. Nowhere in the first Office Action was the escalator 26 recited in column 2 referred to. Whereas the Examiner may have intended to reference the escalator 26 in the first Office Action, the fact remains that it was not referenced but instead the prior art structure was referenced. It is not for the applicant to speculate as to the

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Examiner's intended basis for the rejection. Rather, it is the Examiner responsibility to clearly set forth the basis for the rejection so that the applicant is given the opportunity to respond. Applicant was not given the opportunity to respond to a rejection of the original claims based upon escalator 26.

Indeed, the present grounds for rejection still do not reference the escalator 26 recited in column 2 but instead remain reliant on a combination of the prior art structure and the structure of the detailed description of the invention presented in the Rasmussen reference.

Since the Examiner has now set forth a new grounds of rejection, i.e., reliance on previously un-cited escalator 26, and applicant made no amendments to precipitate such a change in basis for rejection, it is respectfully submitted that the finality in the Office Action is clearly premature. Accordingly, entry of the present Amendment is respectfully requested.

CLAIM REJECTIONS UNDER § 112, SECOND PARAGRAPH

Claims 10 and 11 are rejected as indefinite under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter of the invention as a result of an informality regarding antecedent basis for "linear material" as stated in the Office Action. The claims are amended to

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remove recitation of "linear material." Therefore, reconsideration of the rejection of claims 10 and 11 and their allowance are earnestly requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102(b)

Claims 1-4 are rejected under 35 U.S.C. § 102(b) as being anticipated by the Rasmussen reference. Applicant herein respectfully traverses these rejections. "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim*," *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). It is respectfully submitted that the cited reference is deficient with regard to the following.

Applicant maintains and reasserts the arguments set forth in the Amendment filed November 14, 2006, in so far as those remarks are consistent with the presently amended claim language. It appears that applicant's argument has been misconstrued. In the Response to Arguments section of the Office Action the Examiner states "the features upon which applicant relies (i.e., that the linear material be stretched over itself) are not recited in the rejected claims." Applicant did not argue that such a feature was a basis for patentability but instead stated that the Examiner's application of the claims to the reference would have resulted in

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such an improper interpretation. Applicants argument remains pertinent and stated the following:

The anticipation rejection of claim 2 is also substantively lacking for referring to the cover plate 78 of the Rasmussen reference twice as a teaching for two different elements of the claims, the linear material and the frame. The cover plate of the Rasmussen reference cannot be stretched over itself.

The Examiner read the "linear material" of the original claims, now amended to the term "line," onto the "cover" 78 of the Rasmussen reference. The Examiner also read the "frame" of claim 2 onto the "cover" 78. Claim 2 required that the "linear material" be stretched across the "frame". Amended claim 2 requires that the "line" be stretched across the "frame." Applying the *Examiner's reading* of the claims on the reference both the "linear material" (now "line") and the "frame" are the "cover" 78 of the Rasmussen reference. Thus, applicant's argument was merely shedding light on the fact that the *Examiner's reading* would require the "cover" 78 to be stretched across itself since the Examiner considers both the "linear material" and the "frame" to be represented by the "cover" 78 and claim 2 required that the "linear material" be stretched across the "frame." It is respectfully submitted that this construction set forth by the Examiner is clearly inappropriate and that the basis for the rejection of claim 2 is thus insufficient.

Claim1 is now amended to recite a moving belt which advances the objects. This construction is clearly not shown in the Rasmussen reference. It appears the

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Examiner has chosen to read belts merely on metal rails. Thus, it is submitted that the present construction of claim 1 clearly defines over the Rasmussen reference since the "belt" was also read on the "cover" 78 which does nothing to advance objects but instead merely guides objects. Furthermore, the "cover" 78 is nowhere disclosed as tensioned which is required in claim 1 for the now claimed "line."

In view of the above, it is respectfully submitted that claims 1-4 particularly describe and distinctly claim elements not disclosed in the cited reference. Therefore, reconsideration of the rejections of claims 1-4 and their allowance are respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 5-8 are rejected as obvious over the Rasmussen reference in view of the Martin reference under 35 U.S.C. §103(a). The applicant herein respectfully traverses this rejection. For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

The Examiner states that the Martin reference discloses "the use of string (2106a, b, c) for the purpose of supporting the coins." This is incorrect. The Martin reference discloses the use of "stringers" for supporting the coins.

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"Stringers" are not "strings." The term has no relation to "string." Provided in Appendix I of this response is a dictionary definition of the common term "stringer" which is used architecture and engineering. The definition recites, *inter alia*, " a long, heavy horizontal timber used for any of several connective or supportive purposes." *The American Heritage Dictionary*, Second College Edition, Houghton Mifflin Company (Boston 1985). As used in the Martin reference it simply means an elongated rigid member. The recitation in the Martin reference that "some previous devices provide for flat-topped or rounded-profile rails or ridges, the present invention provides ridges or stringers which at least in the second portion, 2121b, have a triangular or peaked profile" should make clear that the term has no relationship to the "string" recited in the claims and that no one skilled in the art of mechanical design would make such an association.

Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Reconsideration of the rejections of claims 5-8 and their allowance are respectfully requested.

NEW CLAIMS

New claims 13-16 are now presented. Claim 13 is respectfully submitted as patentable for recitation of a line tensioned across an image area on a structure disposed at the image area to retain objects between the line and a belt advancing

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the objects. Claim 14 is submitted as patentable for at least the recitation of a recess receiving the line. Claims 15 and 16 are submitted as patentable for the subject matter recited therein in combination with the subject matter of the claims from which they depend.

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FEES

No fees are believed due. If there are any fees due the USPTO is hereby authorized to charge the fees to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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